

REMARKS

Claims 10-15 are pending in this application.

Applicant has amended claims 10, 14, and 15, and has canceled claims 1-9 and 16-30.

These changes do not introduce any new matter.

Cancellation of Non-Elected Subject Matter

Applicant has canceled claims 1-9 and 16-30, which are directed toward non-elected species. Applicant reserves the right to pursue claims 1-9 and 16-30 in one or more timely filed divisional applications.

Claim Objections

In response to the objection to claims 10-15, Applicant has amended independent claim 10 to change the word “by” to “from,” as suggested by the Examiner. Accordingly, Applicant submits that claims 10-15 now satisfy the distinct claiming requirement of 37 C.F.R. § 1.75(a), and requests that the objection to these claims thereunder be withdrawn.

Rejections Under 35 U.S.C. § 103

Applicant respectfully requests reconsideration of the rejection of claims 10-14 under 35 U.S.C. § 103(a) as being unpatentable over *Shiota et al.* (“*Shiota*”) (US 6,011,547) in view of *Kuwata et al.* (“*Kuwata*”) (US 2002/0030833 A1). As will be explained in more detail below, the combination of *Shiota* in view of *Kuwata* would not have rendered the subject matter defined in independent claims 10 and 14, as amended herein, obvious to one having ordinary skill in the art.

Applicant has amended each of independent claims 10 and 14 to specify that the image processing control information for specifying an image processing condition of the image data that reflects *an image output property of an output apparatus*. In support of the obviousness rejection, the Examiner relies on information specific to a digital still camera (DSC), e.g., the γ property or focal length, as constituting the claimed image processing

control information. Accordingly, as will be discussed in more detail below, the amendments to claims 10 and 14 distinguish the claimed image processing control information from the information specific to a DSC (as well as the claimed shooting information).

The Applied References

The *Shiota* reference discloses a method and apparatus for reproducing an image from data obtained by a digital camera. In particular, the *Shiota* reference discloses 1) an image data generating apparatus that associates shooting information with image data, and 2) an image reproducing apparatus that generates image processing conditions based on the shooting information and stores the conditions associated with the image data in an image server.

The *Kuwata* reference discloses a method and apparatus for generating an image file that can correctly reproduce image data at a predetermined output device. In particular, the *Kuwata* reference generally discloses the concept of image processing control information.

The Claimed Subject Matter Distinguished from the Applied References

As defined in present claims 10 and 14, the claimed subject matter includes the following features:

- 1) the capability of carrying out image processing using either of shooting information or image processing control information;
- 2) preferentially using the image processing control information when the image processing control information is available; and
- 3) the image processing control information reflects the image output property of an output apparatus.

The image data generating apparatus of *Shiota* is capable of associating image data with shooting information; however, this apparatus is incapable of associating the image data

with image processing conditions. This is the case because the image processing conditions are generated by the image reproducing apparatus based on the shooting information.

Further, after the image processing conditions are associated with the image data, the shooting condition is not used, and only the image processing conditions are used. In other words, the *Shiota* reference does not disclose (or suggest) the concept of alternatively using either the shooting information or the image processing conditions.

The *Kuwata* reference discloses a basic application of image processing control information, and therefore the *Kuwata* reference intends to use only the image processing control information. As such, there is no disclosure or suggestion in the *Kuwata* reference regarding the concept of associating shooting information, which is different from the image processing control information, with image data.

In support of the obviousness rejection, the Examiner relies on the *Shiota* reference as disclosing the above-listed features 1) and 2). However, from the view point of carrying out image processing, the shooting information and the image processing conditions cannot be the subject of a selection because the shooting information and the image processing conditions are one and the same in the case of *Shiota* (the image processing conditions in the *Shiota* reference are generated based on the shooting information).

Further, the image processing conditions in the *Shiota* reference are not provided by the image data generating apparatus. Instead, they are absolutely determined by the image reproducing apparatus and do not reflect the user's intention.

The *Kuwata* reference provides no disclosure or suggestion of selecting either shooting information or image processing control information, and also fails to disclose image processing with the shooting information. Above all, if the shooting information is used, this would run counter to reflecting the intention of the user, which is a primary goal of the *Kuwata* reference.

Moreover, the *Shiota* reference fails to disclose or suggest image processing control information for specifying an image processing condition of the image data that reflects an image output property of an output apparatus. As discussed above, the *Shiota* reference merely discloses information such as, for example, the γ property or focal length, which is specific to a DSC. With regard to the claimed shooting information being associated with the image data, the *Kuwata* reference discloses choosing between general image processing and image processing based on output control information; however, *Kuwata* carries out general image processing based on the image processing conditions previously stored in a ROM. Accordingly, *Kuwata*'s general image processing does not correspond to the claimed image processing based on the shooting information associated with the image data.

For at least the foregoing reasons, even if the *Shiota* and *Kuwata* references were to be combined in the manner proposed by the Examiner, this combination would not have resulted in an image processing method or apparatus having each and every feature of present claims 10 and 14. As such, the combination of *Shiota* in view of *Kuwata* would not have suggested each and every feature of the presently claimed subject matter to one having ordinary skill in the art. Consequently, the combination of *Shiota* in view of *Kuwata* would not have rendered the presently claimed subject matter obvious to one having ordinary skill in the art.

Accordingly, independent claims 10 and 14, as amended herein, are patentable under 35 U.S.C. § 103(a) over the combination of *Shiota* in view of *Kuwata*. Claims 11-13, each of which depends from claim 10, are likewise patentable under 35 U.S.C. § 103(a) over the combination of *Shiota* in view of *Kuwata* for at least the same reasons set forth above regarding claim 10.

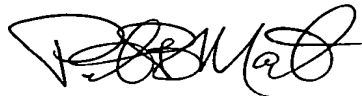
Applicant respectfully requests reconsideration of the rejection of claim 15 under 35 U.S.C. § 103(a) as being unpatentable over *Shiota* in view of *Kuwata*, and further in view of Official Notice. Applicant has amended claim 15 along the same lines that claims 10 and 14

have been amended. Thus, the arguments set forth above regarding claims 10 and 14 also apply to claim 15. With regard to the Examiner's taking of Official Notice, Applicant respectfully traverses the Examiner's position to the extent that it extends in any way beyond the statement "[i]t is well known in the image processing arts that a computer implemented method performed by an apparatus must receive 'instructions or program commands' from a program residing on a computer readable medium in order for the apparatus to be operational." Office Action at page 9. Accordingly, for at least the foregoing reasons, independent claim 15, as amended herein, is patentable under 35 U.S.C. § 103(a) over the combination of *Shiota* in view of *Kuwata*, and further in view of Official Notice.

Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 10-15, as amended herein, and submits that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 749-6902. If any fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP046).

Respectfully submitted,
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